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14
15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

19 IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

Date: January 17, 2013
Time: 1:30 p.m.
Courtroom: 8, 4th Floor
Judge: The Honorable Lucy H. Koh

1 The parties submit this joint statement for the January 17, 2013 Case Management
2 Conference.

3 **I. Case Progress**

4 Since the September 12, 2012 Case Management Conference, the case has progressed as
5 follows.

6 Plaintiffs filed their Motion for Class Certification (Dkt. No. 187) and supporting papers
7 on October 1, 2012.

8 Defendants filed their joint Opposition to Plaintiffs' Motion for Class Certification (Dkt.
9 No. 209) and supporting papers on November 12, 2012. Concurrently, Defendants filed a Motion
10 to Strike the report of Plaintiffs' expert, Dr. Edward Leamer (Dkt. No. 210), and moved for an
11 evidentiary hearing on class certification issues (Dkt. No. 213).

12 Plaintiffs objected to Defendants' Motion to Strike and moved the Court to return the
13 papers to Defendants or, in the alternative, for additional pages in their Reply in support of the
14 Motion for Class Certification. (Dkt. No. 232.) Plaintiffs also opposed Defendants' request for
15 an evidentiary hearing. (Dkt. No. 237.) The Court denied Plaintiffs' request to reject
16 Defendants' Motion to Strike, but allowed Plaintiffs 25 pages in which to respond. (Dkt. No.
17 242.) The Court instructed that Defendants would not be permitted a reply. *Id.* The Court also
18 denied the motion for an evidentiary hearing. *Id.*

19 Plaintiffs filed their Consolidated Reply in Support of Motion for Class Certification and
20 Opposition to Defendants' Motion to Strike (Dkt. No. 247) and supporting papers on December
21 10, 2012. On December 12, 2012, Plaintiffs filed a letter of correction to their consolidated reply
22 brief and reply expert report. (Dkt. No. 253.)

23 Defendants filed a Joint Administrative Motion for Leave to Supplement the Record in
24 Support of Defendants' Opposition to Plaintiffs' Motion for Class Certification on January 9,
25 2013. (Dkt. No. 263.) Plaintiffs will file an opposition to Defendants' Administrative Motion
26 pursuant to Local Rule 7-11(b).

1 The hearing on Plaintiffs' Motion for Class Certification is set for January 17, 2013. (Dkt.
 2 No. 183.) The Court also continued the Case Management Conference previously set for
 3 December 12, 2012 to January 17, 2013. (Dkt. No. 251.)

4 **II. Case Management**

5 The Court's September 12, 2012 Case Management Order set forth the major deadlines
 6 for the litigation from class certification through trial. (Dkt. No. 183.) No party is aware of a
 7 case scheduling dispute at this time.

8 **III. Discovery Progress**

9 The fact discovery cutoff is March 29, 2013 (Dkt. No. 183), and fact discovery has
 10 continued while the parties briefed class certification. Defendants took the depositions of all five
 11 named Plaintiffs between October 12, 2012 and October 29, 2012, and deposed Plaintiffs' expert,
 12 Dr. Edward Leamer, on October 26, 2012. Plaintiffs deposed ten fact witnesses between August
 13 2, 2012 and December 5, 2012, and have scheduled ten additional depositions for January and
 14 February, 2013.¹ Plaintiffs have also deposed 30(b)(6) witnesses regarding Defendants'
 15 employee data and deposed Defendants' expert, Professor Kevin Murphy, on December 3, 2012.

16 On December 17, 2012, Plaintiffs asked Defendants to provide deposition dates for
 17 remaining witnesses Defendants identified, in their Rule 26 initial disclosures, as potential trial
 18 witnesses. Defendants have not yet provided dates. The parties are meeting and conferring on
 19 this issue.

20 The parties have also continued to meet and confer regarding additional document
 21 productions. At Plaintiffs' request, certain Defendants have agreed to supplement their document
 22 productions with additional custodians, and to run additional search terms on existing custodians,

24 ¹ Plaintiffs have deposed the following individuals: Arnon Geshuri (Google), Sharon Coker
 25 (Lucasfilm), Deborah Conrad (Intel), Lori McAdams (Pixar), Jim Morris (Pixar), Pamela
 26 Zissimos (Pixar), Donna Morris (Adobe), Jeff Vijungco (Adobe), Danielle Lambert (Apple), and
 27 Mark Bentley (Apple). The parties have scheduled or conferred about scheduling the depositions
 28 of the following individuals: Lazlo Bock (Google), Eric Schmidt (Google), Shona Brown
 (Google), Paul Otellini (Intel), Bruce Chizen (Adobe), Ed Catmull (Pixar), Bill Campbell (Intuit),
 Debbie Streeter (Adobe), Patricia Murray (Intel), Michelle Maupin (Lucasfilm), and Jan van der
 Voort (Lucasfilm).

and have produced or are in the process of producing responsive documents. Plaintiffs also served a Third Set of Requests for Production of Documents on all Defendants on November 6, 2012, to which Defendants responded on December 10, 2012.

There are no discovery matters presently under submission to Magistrate Judge Grewal. However, Plaintiffs anticipate filing a motion to compel production of certain documents that Google designated as privileged in logs produced on December 28, 2012 and January 7, 2013.² The relevant documents were communicated to Intuit Chairman and Apple Director Bill Campbell (who Google claims was an advisor at the time of his communications), at his intuit.com email address, and/or communicated to Intel CEO Paul Otellini (a member of the Board of directors of Google at the time of the communications) at his intel.com email address. Google maintains that the use of these email communications did not waive its asserted attorney-client privilege with respect to those communications. In light of the March 29, 2013 discovery deadline, Plaintiffs hope to resolve this dispute as expeditiously as possible, and are meeting and conferring with Defendants regarding an abbreviated briefing schedule.

² On December 28, 2012, Google produced a privilege log regarding documents of Google executive Laszlo Bock that contains 2,281 entries. On January 7, 2013, Google produced a privilege log regarding documents of Google executive Shona Brown that contains 579 entries, and a privilege log regarding documents of Eric Schmidt that contains 72 entries. All of these log entries reflected documents held back as privileged from Google's supplemental document production that was substantially completed on December 7, 2012. At Plaintiffs' request, the parties have agreed to postpone the deposition of Mr. Bock, previously scheduled for January 10, in an effort to resolve privilege disputes in advance of his deposition. Plaintiffs seek to resolve the issue as to Ms. Brown and Mr. Schmidt prior to their depositions, currently scheduled for January 30, 2013, and February 21, 2013, respectively.

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25 **ATTESTATION:** Pursuant to General Order 45, Part X-B, the filer attests that concurrence in
26 the filing of this document has been obtained from all signatories.
27
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